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7 *Attorneys for Plaintiff*

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10 EDWARD PEÑA and  
11 BRANDON MILLER,  
12 *individually and on behalf of*  
*persons similarly situated,*

13 *Plaintiff,*

14 v.

15 INTERNATIONAL  
16 MEDICAL DEVICES, INC.,  
17 MENOVA  
18 INTERNATIONAL, INC.,  
19 GESIVA MEDICAL, LLC,  
JAMES J. ELIST, M.D., A  
MEDICAL CORPORATION,  
20 AND DR. JAMES ELIST,  
*Defendants*

Case No. 2:22-cv-03391-SSS (RAOx)

**DISCOVERY MATTER**

**NOTICE OF MOTION AND  
MOTION TO COMPEL**

Date: October 25, 2023  
Time: 10:00 am  
Ctmm: 590, 5th Floor  
Judge: Hon. Rozella A. Oliver

21 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

22 PLEASE TAKE NOTICE THAT, on October 25, 2023 at 10:00 am or such  
23 other date and time as the Court may set, in Courtroom 590 of the above-captioned  
24 Court, located at Roybal Federal Building and United States Courthouse, 255 E.  
25 Temple Street, Los Angeles, CA 90012, Plaintiff will, and hereby does, move this  
26 Court for an order compelling responses to his first set of written discovery.  
27

28 This motion is made pursuant to FED. R. CIV. P. 37 and L.R. 37-2 on the  
grounds that Defendants have failed to produce documents within the time required

1 by Rule 34(b)(2)(A), failed to produce a privilege log within the time required by  
2 the parties' Stipulated Protective Order, (Dkt. 76 at 12–13), and because Defendants'  
3 objections to producing documents that have already been collected and produced  
4 in related proceedings are not well taken. The Court should therefore require  
5 Defendants to produce responsive information and documents within 30 days.

6 This motion is based on this Notice of Motion and Motion; the accompanying  
7 Joint Stipulation, any Supplemental Memoranda filed by the parties; the pleadings  
8 and records of this action; any argument presented at the hearing on the Motion; and  
9 such other and further matters as the court may properly consider.

10  
11 Dated: October 4, 2023

Respectfully submitted,

12  
13 By: /s/ Michael A. Caddell

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25 *Attorneys for Plaintiff*

**CERTIFICATE OF CONFERENCE**

I, Amy E. Tabor, hereby certify that on August 20th and 21st, 2023, I conferred with Amir Nassihi and Jennifer Stevenson, counsel for Defendants regarding the substance of this motion and any potential resolution. I further conferred with Mr. Nassihi and Ms. Stevenson by email on September 21, September 27, and October 3–4. Counsel indicated that Defendants were opposed to the relief requested and would not agree to use the Court’s Informal Discovery Conference Procedure.

/s/ Amy E. Tabor  
Amy E. Tabor

**CERTIFICATE OF SERVICE**

I, Amy E. Tabor, hereby certify that on October 4, 2023 this document was filed with the Court using the CM/ECF system and thereby served on all counsel of record.

/s/ Amy E. Tabor  
Amy E. Tabor